

AMENDED IN SENATE APRIL 4, 2006

SENATE BILL

No. 1393

Introduced by Senator Florez

February 22, 2006

An act to amend Section ~~68152~~ of the Government Code, and to amend Section ~~1192.7~~ of, and to add Section ~~13105~~ to, the Penal Code, relating to sex offenders; ~~8919~~ of the Family Code, and to amend Section ~~102635~~ of the Health and Safety Code, relating to intercountry adoptions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1393, as amended, Florez. ~~Sex offenders: prosecution.~~
Intercountry adoptions.

Existing law authorizes, and in some cases requires, a state resident who has adopted a child in a foreign country through an adoption that is finalized in a foreign country to readopt the child in this state. Existing law requires that the readoption include at least one postplacement in-home visit, the filing of the adoption petition, the intercountry adoption court report, accounting reports, and the final adoption order. Existing law prohibits a court from granting a readoption order unless the court receives a specified report from an adoption agency authorized to provide intercountry adoption services.

This bill would revise and recast these provisions to eliminate several of the requirements described above with respect to readoption, except that one postplacement in-home visit would be required in cases in which readoption is required. The bill would delete the provision prohibiting a court from granting a readoption order unless the court receives a specified report from an adoption agency authorized to provide intercountry adoption services. The bill

would instead provide that a petition to readopt shall be granted if the adoption was finalized in a foreign country and other specified conditions are met.

Existing law requires the State Registrar to establish a new birth certificate upon receipt of a report of adoption, as specified.

The bill would also require the State Registrar to establish a new birth certificate upon receipt of a decree, order, or certificate of adoption that evidences finalization of adoption in a foreign country, if the person seeking the certificate is a resident of this state and is not required by the Department of Homeland Security to readopt the child, or upon receipt of a readoption order, as specified.

Existing law sets forth timelines for the retention of court records, depending upon the subject matter or criminal offense.

This bill would require courts to keep all records relating to persons required to register as sex offenders for the life of the offender. The bill also would prohibit a state or local law enforcement agency from destroying any records relating to a registered sex offender for the life of the offender. Because the bill would impose new responsibilities on local agencies, the bill would impose a state-mandated local program.

Existing law, added by an initiative statute that provides for amendment of its provision by 2/3 vote of the Legislature, prohibits plea bargaining in certain felony cases, except as specified.

This bill would state the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under “one strike,” “3 strikes” or habitual sexual offender laws instead of engaging in plea bargaining, and would require a district attorney to state on the record why a sentence should not be prosecuted under those provisions, if he or she engages in plea bargaining despite the stated intent.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 8919 of the Family Code is amended to*
2 *read:*

3 8919. (a) (1) Each state resident who adopts a child through
4 an intercountry adoption that is finalized in a foreign country
5 shall readopt the child in this state if it is required by the
6 ~~Immigration and Naturalization Service Department of~~
7 ~~Homeland Security.~~ The readoption shall include, ~~but is not~~
8 ~~limited to,~~ at least one postplacement in-home visit, ~~the filing of~~
9 ~~the adoption petition pursuant to Section 8912, the intercountry~~
10 ~~adoption court report, accounting reports, and the final adoption~~
11 ~~order. No readoption order shall be granted unless the court~~
12 ~~receives a report from an adoption agency authorized to provide~~
13 ~~intercountry adoption services pursuant to Section 8900.~~

14 (2) *The petition to readopt shall be granted if all of the*
15 *following apply:*

16 (A) *The adoption was finalized in accordance with the laws of*
17 *the foreign country.*

18 (B) *The resident has filed with the petition a copy of both of*
19 *the following:*

20 (i) *The decree, order, or certificate of adoption which*
21 *evidences finalization of the adoption in the foreign country.*

22 (ii) *The child's birth certificate and visa together with a*
23 *certified translation into English of any document that is not in*
24 *English.*

25 (b) Each state resident who adopts a child through an
26 intercountry adoption that is finalized in a foreign country may
27 readopt the child in this state. The readoption shall meet the
28 standards described in subdivision (a), *except that no*
29 *postplacement visit shall be required.*

30 (c) In addition to the requirement or option of the readoption
31 process set forth in this section, each state resident who adopts a
32 child through an intercountry adoption which is finalized in a
33 foreign country may obtain a birth certificate in the State of
34 California in accordance with the provisions of Section 102635
35 or 103450 of the Health and Safety Code.

36 *SEC. 2. Section 102635 of the Health and Safety Code is*
37 *amended to read:*

1 102635. A new birth certificate shall be established by the
2 State Registrar upon receipt of ~~a~~ *any of the following*:

3 (a) *A report of adoption from any court of record that has*
4 *jurisdiction of the child of this state, another state, the District of*
5 *Columbia, in any territory of the United States, or in any foreign*
6 *country, for any child born in California and whose certificate of*
7 *birth is on file in the office of the State Registrar.*

8 (b) *A decree, order, or certificate of adoption that evidences*
9 *finalization of adoption in a foreign country, if the person*
10 *seeking the certificate is a resident of this state and is not*
11 *required by the Department of Homeland Security to readopt the*
12 *child.*

13 (c) *A readoption order issued pursuant to Section 8919 of the*
14 *Family Code.*

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17 **All matter omitted in this version of the bill**
18 **appears in the bill as introduced in**
19 **Senate, Feb. 22, 2006.**
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